



DEPARTMENT OF COMMERCE

International Trade Administration

[C-570-146]

Certain Freight Rail Couplers and Parts Thereof from the People's Republic of China: Preliminary Affirmative Countervailing Duty Determination and Preliminary Affirmative Critical Circumstances Determination

AGENCY: Enforcement and Compliance, International Trade Administration, Department of Commerce.

SUMMARY: The U.S. Department of Commerce (Commerce) preliminarily determines that countervailable subsidies are being provided to producers and exporters of certain freight rail couplers and parts thereof (freight rail couplers) from the People's Republic of China (China) during the period of investigation January 1, 2021, through December 31, 2021.

DATES: Applicable [INSERT DATE OF PUBLICATION IN THE *FEDERAL REGISTER*].

FOR FURTHER INFORMATION CONTACT: Terre Keaton Stefanova or Paul Gill, AD/CVD Operations, Office IX, Enforcement and Compliance, International Trade Administration, U.S. Department of Commerce, 1401 Constitution Avenue, NW, Washington, DC 20230; telephone:

(202) 482-1280 or (202) 482-5673, respectively.

SUPPLEMENTARY INFORMATION:

Background

This preliminary determination is made in accordance with section 703(b) of the Tariff Act of 1930, as amended (the Act). On October 18, 2022, Commerce published the notice of initiation of this investigation.¹ On December 2, 2022, Commerce postponed the preliminary determination of this investigation until February 27, 2023.² For a complete description of the

¹ See *Certain Freight Rail Couplers and Parts Thereof from the People's Republic of China: Initiation of Countervailing Duty Investigation*, 87 FR 64440 (October 25, 2022) (*Initiation Notice*).

events that followed the initiation of this investigation, *see* the Preliminary Decision Memorandum.³ A list of topics discussed in the Preliminary Decision Memorandum is included as Appendix II to this notice. The Preliminary Decision Memorandum is a public document and is on file electronically via Enforcement and Compliance's Antidumping and Countervailing Duty Centralized Electronic Service System (ACCESS). ACCESS is available to registered users at <http://access.trade.gov>. In addition, a complete version of the Preliminary Decision Memorandum can be accessed directly at <https://access.trade.gov/public/FRNoticesListLayout.aspx>.

Scope of the Investigation

The products covered by this investigation are freight rail couplers from China. For a complete description of the scope of this investigation, *see* Appendix I.

Scope Comments

In accordance with the preamble to Commerce's regulations,⁴ the *Initiation Notice* set aside a period of time for parties to raise issues regarding product coverage (*i.e.*, scope).⁵ We received comments from several parties concerning the scope of the antidumping duty (AD) and countervailing duty (CVD) investigations of freight rail couplers as it appeared in the *Initiation Notice*, which are listed in the Preliminary Decision Memorandum.⁶ We are currently evaluating the scope comments filed by the interested parties and intend to issue our preliminary decision regarding the scope of the AD and CVD investigations shortly. We will incorporate the scope decisions from the AD investigations into the scope of the final CVD determination for this investigation, after considering any relevant comments submitted in scope case and rebuttal briefs.

² *See Certain Freight Rail Couplers and Parts Thereof from the People's Republic of China: Postponement of Preliminary Determination*, 87 FR 74128 (December 2, 2022).

³ *See* Memorandum, "Decision Memorandum for the Preliminary Determination in the Countervailing Duty Investigation of Certain Freight Rail Couplers and Parts Thereof from the People's Republic of China," dated concurrently with, and hereby adopted by, this notice (Preliminary Decision Memorandum).

⁴ *See Antidumping Duties; Countervailing Duties*, 62 FR 27296, 27323 (May 19, 1997).

⁵ *See Initiation Notice*, 87 FR 64441.

⁶ *See* Preliminary Decision Memorandum at 1-22.

Preliminary Affirmative Determination of Critical Circumstances

In accordance with section 703(e)(1) of the Act, we preliminarily find that critical circumstances exist with respect to imports of subject merchandise from Chongqing Tongyao, Qingdao Sanheshan, the non-responsive companies,⁷ and all other producers and/or exporters. For a full discussion of our preliminary critical circumstances determination, *see* the “Critical Circumstances” section of the Preliminary Decision Memorandum.

Methodology

Commerce is conducting this investigation in accordance with section 701 of the Act. For each of the subsidy programs found countervailable, Commerce preliminarily determines that there is a subsidy, *i.e.*, a financial contribution by an “authority” that gives rise to a benefit to the recipient, and that the subsidy is specific.⁸

Commerce notes that, in making these findings, it relied on facts available and, because Commerce finds that necessary information was missing from the record and because respondents did not act to the best of their ability to respond to Commerce’s requests for information, Commerce drew an adverse inference in selecting from among the facts otherwise available.⁹ For further information, *see* the “Use of Facts Otherwise Available and Adverse Inferences” section in the Preliminary Decision Memorandum.

All-Others Rate

Sections 703(d) and 705(c)(5)(A) of the Act provide that in the preliminary determination, Commerce shall determine an estimated all-others rate for companies not individually examined. This rate shall be an amount equal to the weighted average of the

⁷ The non-responsive companies are: (1) Chongqing Changzheng Heavy Industry Co., Ltd.; (2) CRRC Qiqihar Co., Ltd.; (3) NanJing Zhongsheng Rolling Stock Components Co. Ltd.; (4) Ningbo Minghui Metal Technology Co., Ltd.; (5) Qingdao Lianshan Casting Co., Ltd.; (6) Shaanxi Haiduo Railway Technology Development Co., Ltd.; and (7) Shanghai Voith Xiagujin Chuang Coupler Technology Co., Ltd.

⁸ *See* sections 771(5)(B) and (D) of the Act regarding financial contribution; section 771(5)(E) of the Act regarding benefit; and section 771(5A) of the Act regarding specificity.

⁹ *See* sections 776(a) and (b) of the Act.

estimated subsidy rates established for those companies individually examined, excluding any zero and *de minimis* rates and any rates based entirely under section 776 of the Act.

Pursuant to section 705(c)(5)(A)(ii) of the Act, if the individual estimated countervailable subsidy rates established for all exporters and producers individually examined are zero, *de minimis*, or determined based entirely on facts otherwise available, Commerce may use “any reasonable method” to establish the estimated subsidy rate for all other producers or exporters. In this investigation, Commerce preliminarily determined the individually estimated subsidy rate for each of the individually examined respondents based entirely on facts available under section 776 of the Act. This is the only rate available in this proceeding for deriving the all-others rate. Consequently, pursuant to sections 703(d) and 705(c)(5)(A)(ii) of the Act, Commerce established the all-others rate by applying the countervailable subsidy rate assigned to the mandatory respondents.

Preliminary Determination

Commerce preliminarily determines that the following estimated countervailable subsidy rates exist:

Company	Subsidy Rate (percent <i>ad valorem</i>)
Chongqing Changzheng Heavy Industry Co., Ltd.	265.99
Chongqing Tongyao Transportation Equipment Co.	265.99
CRRC Qiqihar Co., Ltd.	265.99
NanJing Zhongsheng Rolling Stock Components Co. Ltd.	265.99
Ningbo Minghui Metal Technology Co., Ltd.	265.99
Qingdao Lianshan Casting Co., Ltd.	265.99
Qingdao Sanheshan Precision Casting Co., Ltd.	265.99
Shaanxi Haiduo Railway Technology Development Co., Ltd.	265.99
Shanghai Voith Xiagujin Chuang Coupler Technology Co., Ltd.	265.99
All Others	265.99

Suspension of Liquidation

In accordance with section 703(e)(2)(A) of the Act, because we find that critical circumstances exist for Chongqing Tongyao, Qingdao Sanheshan, the non-responsive companies,

and all other producers and/or exporters, Commerce will direct U.S. Customs and Border Protection (CBP) to suspend liquidation of entries of subject merchandise as described in the scope of the investigation entered, or withdrawn from warehouse, for consumption on or after the date 90 days prior to the date of publication of this notice in the *Federal Register*. Further, pursuant to 19 CFR 351.205(d), Commerce will instruct CBP to require a cash deposit equal to the rates indicated above.

Disclosure

Normally, Commerce discloses its calculations and analysis performed in connection with the preliminary determination to interested parties within five days of its public announcement, or if there is no public announcement, within five days of the date of publication of this notice, in accordance with 19 CFR 351.224(b). However, because Commerce preliminarily applied total AFA in the calculation of the benefit for Chongqing Tongyao, Qingdao Sanheshan, and the non-responsive companies, and the applied AFA rates are based on rates calculated in prior proceedings, there are no calculations to disclose.

Verification

Because the examined respondents in this investigation did not provide information Commerce requested and Commerce preliminarily determines that each of the examined respondents have been uncooperative, it will not conduct verification.

Public Comment

All interested parties will have the opportunity to submit scope case and rebuttal briefs on the preliminary decision regarding the scope of the AD and CVD investigations. The deadlines to submit scope case and rebuttal briefs will be provided in the preliminary scope decision memorandum. For all scope case and rebuttal briefs, parties must file identical documents simultaneously on the records of the ongoing AD and CVD freight rail couplers investigations. No new factual information or business proprietary information may be included in either scope case or rebuttal briefs.

Case briefs or other written comments on non-scope issues may be submitted to the Assistant Secretary for Enforcement and Compliance no later than 20 days after the date of publication of the preliminary determination. Rebuttal briefs, limited to issues raised in case briefs, may be submitted no later than seven days after the deadline date for case briefs.¹⁰ Pursuant to 19 CFR 351.309(c)(2) and (d)(2), parties who submit case briefs or rebuttal briefs in this investigation are encouraged to submit with each argument: (1) a statement of the issue; (2) a brief summary of the argument; and (3) a table of authorities. Commerce has modified certain of its requirements for serving documents containing business proprietary information until further notice.¹¹

Pursuant to 19 CFR 351.310(c), interested parties who wish to request a hearing, limited to issues raised in the case and rebuttal briefs, must submit a written request to the Assistant Secretary for Enforcement and Compliance, U.S. Department of Commerce within 30 days after the date of publication of this notice. Requests should contain the party's name, address, and telephone number, the number of participants, and a list of the issues to be discussed. Oral presentations at the hearing will be limited to issues raised in the briefs. If a request for a hearing is made, parties will be notified of the time and date for the hearing.¹²

International Trade Commission Notification

In accordance with section 703(f) of the Act, Commerce will notify the U.S. International Trade Commission (ITC) of its determination. If the final determination is affirmative, the ITC will determine before the later of 120 days after the date of this preliminary determination or 45 days after the final determination whether imports of freight rail couplers from China are materially injuring, or threaten material injury to, the U.S. industry.

¹⁰ See 19 CFR 351.309; *see also* 19 CFR 351.303 (for general filing requirements).

¹¹ See *Temporary Rule Modifying AD/CVD Service Requirements Due to COVID-19; Extension of Effective Period*, 85 FR 41363 (July 10, 2020).

¹² See 19 CFR 351.310(d).

Notification to Interested Parties

This determination is issued and published pursuant to sections 703(f) and 777(i) of the Act, and 19 CFR 351.205(c).

Dated: February 27, 2023.

Abdelali Elouaradia,
*Deputy Assistant Secretary
for Enforcement and Compliance.*

Appendix I

Scope of the Investigation

The scope of this investigation covers certain freight railcar couplers (also known as “fits” or “assemblies”) and parts thereof. Freight railcar couplers are composed of two main parts, namely knuckles and coupler bodies but may also include other items (*e.g.*, coupler locks, lock lift assemblies, knuckle pins, knuckle throwers, and rotors). The parts of couplers that are covered by the investigation include: (1) E coupler bodies, (2) E/F coupler bodies, (3) F coupler bodies, (4) E knuckles, and (5) F knuckles, as set forth by the Association of American Railroads (AAR). The freight rail coupler parts (*i.e.*, knuckles and coupler bodies) are included within the scope of the investigation when imported separately. Coupler locks, lock lift assemblies, knuckle pins, knuckle throwers, and rotors are covered merchandise when imported in an assembly but are not covered by the scope when imported separately.

Subject freight railcar couplers and parts are included within the scope whether finished or unfinished, whether imported individually or with other subject or non-subject parts, whether assembled or unassembled, whether mounted or unmounted, or if joined with non-subject merchandise, such as other non-subject parts or a completed railcar. Finishing includes, but is not limited to, arc washing, welding, grinding, shot blasting, heat treatment, machining, and assembly of various parts. When a subject coupler or subject parts are mounted on or to other non-subject merchandise, such as a railcar, only the coupler or subject parts are covered by the scope.

The finished products covered by the scope of this investigation meet or exceed the AAR specifications of M-211, “Foundry and Product Approval Requirements for the Manufacture of Couplers, Coupler Yokes, Knuckles, Follower Blocks, and Coupler Parts” and/or AAR M-215 “Coupling Systems,” or other equivalent domestic or international standards (including any revisions to the standard(s)).

The country of origin for subject couplers and parts thereof, whether fully assembled, unfinished or finished, or attached to a railcar, is the country where the subject coupler parts were cast or forged. Subject merchandise includes coupler parts as defined above that have been further processed or further assembled, including those coupler parts attached to a railcar in third countries. Further processing includes, but is not limited to, arc washing, welding, grinding, shot blasting, heat treatment, painting, coating, priming, machining, and assembly of various parts. The inclusion, attachment, joining, or assembly of non-subject parts with subject parts or couplers either in the country of manufacture of the in-scope product or in a third country does not remove the subject parts or couplers from the scope.

The couplers that are the subject of this investigation are currently classifiable in the Harmonized Tariff Schedule of the United States (HTSUS) statistical reporting number 8607.30.1000. Unfinished subject merchandise may also enter under HTSUS statistical reporting number 7326.90.8688. Subject merchandise attached to finished railcars may also enter under HTSUS statistical reporting numbers 8606.10.0000, 8606.30.0000, 8606.91.0000, 8606.92.0000, 8606.99.0130, 8606.99.0160, or under subheading 9803.00.5000 if imported as an Instrument of International Traffic. Subject merchandise may also be imported under HTSUS statistical reporting number 7325.99.5000. These HTSUS subheadings are provided for convenience and customs purposes only; the written description of the scope of the investigation is dispositive.

Appendix II

List of Topics Discussed in the Preliminary Decision Memorandum

- I. Summary
 - II. Background
 - III. Scope of the Investigation
 - IV. Injury Test
 - V. Diversification of China's Economy
 - VI. Use of Facts Otherwise Available and Adverse Inferences
 - VII. Analysis of Programs
 - VIII. Critical Circumstances
 - IX. Recommendation
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